

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

SUMMARY

Joint Meeting of the Affordability, Real Estate Law, and Mortgages Work Group and the Neighborhood Transitions and Residential Land Use Work Group

**Thursday, September 12, 2013, 10:00 AM
House Room C, General Assembly Building**

I. Call to Order - Affordability, Real Estate Law, and Mortgages Work Group

Delegate Danny Marshall, Chair, called the meeting to order at 10:07 AM.

Work Group members in attendance: Delegate Rosalyn Dance; Delegate Barry Knight; Senator Mamie Locke; Senator George Barker; Mark Flynn, *Governor Appointee/Virginia Municipal League*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Steve Baugher, *Virginia Association of Mortgage Brokers*; Paul Brennan, *Virginia Housing Development Authority*; Robert N. Bradshaw, *Independent Insurance Agents of Virginia*; J.G. Carter, *SunTrust*; Tyler Craddock, *Manufactured & Modular Housing Association*; Chip Dicks, *Virginia Association of Realtors*; Andrew M. Friedman, *Virginia Beach Dept. of Housing & Neighborhood Preservation*; Kelly Harris-Braxton, *Virginia First Cities*; Shea Hollifield, *Dept. of Housing and Community Development*; Kelly King Horne, *Homeward*; Erik Johnston, *Virginia Association of Counties*; John H. Jordan, *Manufactured Housing Communities of Virginia*; Alexander Macaulay, *CitiGroup*; R. Schaefer Oglesby, *Virginia Association of Realtors*; Renee Pulliam, *Virginia Apartment Management Association*; Jay Speer, *Poverty Law Center*; Michael Toalson, *Home Builders Association of Virginia*; William Walton, *Real Property, Inc.*; Michele Watson, *Virginia Housing Development Authority*; Cal Whitehead, *Whitehead Consulting*.

Staff: Elizabeth Palen, *Executive Director of VHC*

II. Service Members Civil Relief Act (SCRA) and the VRLTA

- **Chip Dicks, Virginia Association of Realtors:** The issue is whether the federal law trumps the state law in several respects.
 - Post Iraq war, the federal government adopted the Service Members Civil Relief Act, and I will describe the applicable provisions that interface with the Virginia Residential Landlord Tenant Act. Firstly, under the SCRA a landlord or any other party can ask a service member to waive their rights under the SCRA.

- **Del. Marshall:** Why would someone want to waive his rights?
 - **Dicks:** A member would waive to incentivize a landlord to permit them as a tenant. The tenant has the right to terminate their lease at their option at least 30 days prior to the next rent due date. These are the only provisions for termination under the SCRA.
 - The corresponding provision in the VRLTA predates that in the SCRA. The conflicting provision states that a service member may terminate a lease “if the member has received permanent change of station orders to depart 35 miles or more (radius) from the location of the dwelling unit.” [§ 55-248.21:1] This is inconsistent with the federal law.
 - Generally federal law trumps state law, but federal law only trumps state law when state law is inconsistent with federal law. Federal law does not say you cannot have a radius in state law. The issue is whether the SCRA trumps the state law on the 35-mile radius.

III. **Real Local Property Tax in Certain Service Districts (HB 2131, Delegate M. Keam, 2013)**

- **Delegate Mark Keam:** I introduced HB 2131 in an effort to deal with a local issue in Tysons Corner. The bill was designed to provide Fairfax County Board of Supervisors latitude to redefine and [needs a verb here] what rate property tax depending on the purpose. It was drafted this way because the Fairfax County Board of Supervisors adopted a regulation to impose a new tax to provide transportation and other infrastructure in Tysons Corner.
 - This district includes both residential and commercial property, and the board assessed the tax equally. For residents, especially those retired and on a fixed income, an extra 7-9% tax is burdensome and unfair. This bill would provide flexibility to the county to determine which properties to be taxed and different rates, offering financial relief to residents.
- **Andrew Friedman:** In Virginia Beach, we have a property tax exemption program that is income or asset based for elderly and disabled homeowners. Have you considered that as a simpler alternative?
 - **Claudia Arco, Fairfax County:** The Board does have that property tax exemption for the elderly and disables. The concern is for residents who do not qualify for that tax exemption.
- **Sen. George Barker:** What is the Board position in relation to this bill?
 - **Arco:** Yes, the Fairfax County Board of Supervisors supports this bill as introduced.
- **Sen. Barker:** Is the value of the condominiums in this area likely to appreciate?
 - **Arco:** Yes, property values will increase with the transportation development.
- **Sean Farr:** For a homeowner such as described, would they be likely to seek a reverse mortgage and thus realize the appreciation of their property value?
 - **Arco:** I am not an expert on that issue.

- **Mike Toalson:** The tax has been imposed. Was their substantial opposition?
 - **Arco:** There were many concerned residents with the establishment of the district. To address the concerns, the Board did manage to create a lower tax rate than was originally planned.
- **Philip Abraham, Virginia Association of Commercial Real Estate:** Mr. Chairman and Members of the Housing Commission, I am Philip Abraham, appearing before you today on behalf of the Virginia Association for Commercial Real Estate (VACRE). VACRE represents the Northern Virginia, Hampton Roads, and Richmond area commercial and industrial developers who have teamed with other professionals from Virginia's urban crescent to serve as the voice of the commercial and industrial development community in Virginia. NAIOP Northern Virginia, the Hampton Roads Association for Commercial Real Estate (HRACRE), and the Greater Richmond Association for Commercial Real Estate (GRACRE) comprise the three member chapters of VACRE. There are about 800 member companies and more than 2000 individuals in VACRE's three chapters.
 - VACRE strongly opposed HB 2131 as introduced during the 2013 Session, which would have applied throughout Fairfax County, as well as the substitute bill that was presented by Delegate Kean to a Subcommittee of House Counties, Cities and Towns, which would only apply in Tysons Corner. We continue to strongly oppose this special legislation today.
 - VACRE's opposes this legislation because it would establish a harmful precedent within Virginia's tax law by allowing a locality to impose a significant real estate tax increase on the business community, without the consent of a majority of taxpayers within the designated area, while exempting homeowners from the real estate tax increase.
 - Fairfax County is generally recognized as the economic engine of Virginia and Tysons Corner is the central component of that economic engine that benefits the entire Commonwealth. Singling out the business community for a real estate tax hike county-wide or just in Tysons Corner would do significant damage to Virginia's reputation as one of the best states to do business. Property taxes play a significant role in setting Virginia's business climate. A 2010 study by JLARC found that property taxes comprise 41% of the state and local tax burden on the business community, by far the largest percentage of the tax burden on Virginia businesses, the second largest being excise and gross receipt taxes at only 17% of the burden
 - Virginia law already provides two exceptions to the long-standing precedent of uniform real estate taxation of business and residential property. First, the transportation improvement district statutes allow bifurcated taxation if 51% of the landowners consent to it. This authority has been used effectively by Fairfax County to make improvements to Route 28 as well to the metro system. Second, HB 3202 from the 2007 Session, with the support of the business community, gave the localities in Northern Virginia and Hampton Roads the ability to impose an additional real estate tax on businesses for transportation improvements. Fairfax County has already used this authority to impose an 11-cent-per-\$100 tax on the business community to fund transportation improvements within the County.

- While the proposed legislation would exempt homeowners from the Tysons [want to change all Tysons to Tysons Corner?] real estate tax increase that went into effect on July 1, 2013, as Mr. Gordon will elaborate, it would impose the tax on apartments which is grossly unfair and certainly in conflict with the interest of the Housing Commission in promoting affordable housing options in the Commonwealth. While homeowners make up only about 10% of the assessed value of property within Tysons, this is by no means a small pocket of residences. Residential landowners comprise ten percent of the \$11.15 billion value of property within Tysons or a value of \$1.15 billion. Fairfax County reports the median value of a single family detached home in the County is about \$543,000 while a town home is \$329,594. If you assume all the homes in Tysons are detached, which they are not, that equals more than 2100 homes in Tysons who are sharing a small portion of the cost of the transportation improvements.
- Significantly, the primary goal of the Tysons redevelopment plan that is driving the transportation improvements being funded by the new tax district is to significantly increase the amount of residents within Tysons. Tysons today is home to 17,000 residents and 105,000 jobs. The County's redevelopment plan for Tysons calls for homes for 100,000 residents and 200,000 jobs by 2050. On June 24, 2013 the County announced approval of the plan to transform Tysons and stated "It will become a 24 hour urban center where people will live, work and play—instead of a sprawling suburban office park." Why should homeowners be exempted from funding transportation improvements designed to accommodate a more than five-fold increase in residences within the area and to make their community much more resident friendly?
- Finally, the business community already is bearing the vast majority of the cost of the transportation improvements within Tysons. As Mr. Gordon will elaborate, developers are solely bearing more than \$1 billion of Grid Street and Tyson-wide transportation infrastructure improvements planned Tysons. This does not include the HB 3202 transportation taxes already paid solely by the business community, the funds the business community has paid towards metro rail improvements as well as the proffers offered by Tysons developers. This legislation simply addresses the remaining \$253 million of improvements, 90% of the cost of which will be not be paid by homeowners.
- These improvements will benefit residents and businesses alike and therefore it is appropriate that homeowners join with apartment residents and businesses to pay a small portion of these costs. While nobody likes tax increases, and I sympathize with the burden they can place on families, to quote the Fairfax County Planning Commission in its September 12, 2102 recommendations to the Board of Supervisors, "the Tysons-wide road improvements will benefit all residents and landowners who work, play and shop within Tysons, whether they are new office workers or longtime residents. Therefore a portion of the cost of these improvements should be borne by all Tysons landowners."
- Thank you for your time. I urge you to oppose this and any other legislation that would undo Virginia's longstanding tax policy that businesses and residents should

pay uniform real estate tax rates unless a majority of the property owners consent otherwise.

- **Brian Gordon, AOA:** We oppose this legislation for three reasons:
 - This legislation would foster the regressive tax scheme that would discriminate between different types of housing.
 - Fairfax County already has authority to provide relief or fully exempt residential owners in the district.
 - Commercial property owners already contribute disproportionately to infrastructure development in Fairfax County.
- **Ronke Luke, McLean Chase Condominium Association:** Fairfax County Board did not act carefully or fairly. The Board embarked on this plan to build a metro line without a clear plan of how to pay for it. The homeowners were shocked and appalled that Fairfax County was just going to push this bill through the system. There was no conversation with the homeowners. We were just given a bill. I ask you to consider the homeowners and support HB 2131.
- **Mike Toalson:** Will you benefit from the more efficient transportation systems?
 - **Luke:** The only transportation improvements I have heard about is the metro station, which for me, personally, is inconvenient.
- **Toalson:** It seems to me that everyone benefiting, either from the transportation improvements or appreciation of property value, should pay their fair share.
 - **Luke:** I agree. However, the boundary for the tax district has been drawn arbitrarily, and does not necessary reflect the residents who benefit.
- **Renee Pulliam:** What were the percentages of the tax base that come from homeowners and business community?
 - **Abraham:** 10% of the assessed value of Tysons Corner is homeowners, and 90% is business.
- **Pulliam:** The additional tax would be imposed on everyone in those districts, other than those exempt.
 - **Abraham:** Correct.
- **Ron Parson:** The Fairfax County Transit Development Plan provides that 95% of development will happen within a half-mile radius of the new metro stops. The two HOA's I represent are far outside that radius and will not benefit from the transportation improvements. We request that Fairfax County adjust the boundary and create a boundary that has meaning.
- **Andrew Friedman:** Are you in favor of the bill as presented today?
 - **Parson:** If I thought it would pass, I would support it. It strikes me as politically unrealistic.

- **Sen. Barker:** Does the map represent what the county defines as Tyson's Corner?
 - **Arco:** Yes, that's accurate.
- **Barker:** There was no change to what was previously defines as Tyson's Corner?
 - **Arco:** Yes, I believe so. The county tried to be careful in how they drew the district.
- **Del. Keam:** Our goal is to provide citizens relief, and, beyond that, use this as an example as a statewide policy. Would love a chance to continue to work on this.
- **Del. Marshall:** We will not vote today, but we will take up this issue in a later meeting.

IV. **Call to Order - Neighborhood Transition and Residential Land Use Work Group**

Delegate Rosalyn Dance, Chair called the meeting to order at 11:24 AM.

Workgroup members in attendance: Delegate David Bulova; Delegate Daniel W. Marshall, III; Senator Mamie Locke; Mark Flynn, *Governor Appointee/Virginia Municipal League*; T.K. Somanath, *Governor Appointee*; Neal J. Barber, *Community Futures*; Anthony Burfoot, *Vice Mayor, Norfolk*; Bernard Caton, *City of Alexandria, Legislative Director*; Tyler Craddock, *Manufactured & Modular Housing Association*; Chip Dicks, *Virginia Association of Realtors*; Bill Ernst, *Dept. of Housing & Community Development*; Chris Freund, *Family Foundation of Virginia*; Brian Gordon, *Apartment and Office Building Association*; Kelly Harris-Braxton, *Virginia First Cities*; John H. Jordan, *Manufactured Housing Communities*; Erik Johnston, *Virginia Association of Counties*; Ted Koebel, *Center for Housing Research at Virginia Tech*; Barry Merchant, *Virginia Housing Development Authority*; A. Vaughn Poller, *Hampton Roads Housing Consortium*; Michael Toalson, *Home Builders Association of Virginia*; Cal Whitehead, *Whitehead Consulting*.

Staff: Elizabeth Palen, *Executive Director of VHC*

V. **Building Revitalization Grant- Follow-up Discussion from June 20, 2013 (SB 748, Senator W. Stanley, 2013)**

- **Senator Bill Stanley:** SB 748 is a Building Revitalization Grant, which started out as a tax credit for previous industrial centers. The bill creates a grant fund to allow private ministries to relocate and utilize the buildings to retrofit, upfit, and put people back to work.
 - The cap was originally set at 100,000, but may not be significant enough. We modified to cap at 600,000. We need more flexibility in that number, as an add-on. The undertaking and monitoring would be under the Department of Housing and Community Development.
- **Del. Marshall:** Are there other states doing this?
 - **Sen. Stanley:** North Carolina has a more robust version. We are in direct competition with them, and they have better incentives to revitalize these companies.
- **Del. Marshall:** Is this bill drawn statewide or areas of high unemployment?
 - **Sen. Stanley:** It is a statewide opportunity. The utilization would hopefully be in areas of high unemployment. Most of the opportunities for revitalization are in

Southwest, south side, Petersburg, and Central Virginia, where those industries once were.

- **Del. Marshall:** Under paragraph C, as we both serve under Tobacco Commission when we give grants, we have a Performance Agreement. It is a capital investment, employment [missing word?], and a private match. If the company does not do what they say they will, then they have to give the money back. Under C, is that what this is about?
 - **Sen. Stanley:** Yes, that is exactly what C is. If they fail to perform as they agreed, the state money will be recouped.
- **Friedman:** Having it available to any business in any part of the state could result in business planning to do this, could go anywhere outside southside, meet the cap, and then not have any new investment in southside. The cap on what is outstanding makes it difficult to manage. I'm afraid this may not have the intended effect.
 - **Sen. Stanley:** Instead of building a new building, we have industrial parks that need retrofitting. The idea is to direct them to the building. With the age requirement and the competitiveness of it, I think it will be adequately distributed.
- **Del. Dance:** Why are we not tailoring it to the areas that could benefit the most?
- **Del. Marshall:** In a previous bill, if an area had one and a half times the state's unemployment rate, they were qualified for benefits. You may want to think about that.
 - **Sen. Stanley:** I thought that was a great system. When it comes to State Finance, they do not like tax credits and things that do not apply to the whole state. In order to get the bill before this committee, those things had to be reduced. I am happy to put those provisions back into the bill.
- **Del. Dance:** But can you define this so that it includes the whole state, but still takes care of a specific area?
 - **Sen. Stanley:** Yes, I can.
- **Kelly Harris-Braxton, Virginia First Cities:** We would support this tool and the tailoring to specific areas. Would a private investor be able to apply for this instead of local government?
 - **Sen. Stanley:** Correct
- **Harris-Braxton:** If it were tailored to specific areas with the greatest need, I would feel more supportive. If the local government were involved in this, I would also support that.
 - **Sen. Stanley:** I agree, and I will include an amendment to tailor it to specific areas with the greatest need.
- **Barkley:** The Fund could be set up as a competitive process and have one of the factors be the area's economic situation. That is a way to make it statewide, but target specific areas.
- **Del. Marshall:** Would you want to narrow it to manufacturing rather than any type of business?

- **Sen. Stanley:** I wouldn't want to limit it, especially when considering competition with North Carolina. I will be willing to continue drafting this bill.
- **Del. Dance** adjourned the Neighborhood Transition and Residential Land Use Work Group meeting at 11:52 AM.

VI. Public Comment

- **Del. Marshall** asked if there were any comments from the public.

VII. Adjourn

- Hearing no request for comment, **Del. Marshall** adjourned the Affordability, Real Estate Law, and Mortgages Work Group meeting at 11:52 AM.